

### **REMARKS**

The Final Office Action mailed December 3, 2008, has been received and reviewed. Claims 46 and 47 have been canceled herein. The claim cancellations are made without prejudice and without disclaimer. Applicants respectfully request reconsideration of the application in view of the arguments and claim cancellations herein.

### **Co-pending and Related Applications**

The Office again requested a complete list of co-pending and related applications. In a telephone interview with the Examiner on January 29, 2009, the Examiner explained that she would like a list of any applications that have inventors in common with the instant application, where those applications include the claimed bicyclo core and also disclose inhibiting a kinase. Applicants believe that such a list will encompass applications that are unrelated to the instant application. However, in addition to those previously provided, Applicants have identified the following: US 6,245,764; US 6,699,869; US 7,125,872; and US Appl. No. 11/448,412. Abandoned and provisional applications have not been included in the list. Applicants did not include US 7,053,214 and applications related thereto, as Applicants believe that US 7,053,214 does not disclose inhibiting a kinase. The Examiner is welcome to contact Applicants' representative to discuss the matter further if that would be helpful.

### **Double Patenting**

Claims 10-14, 33, 46, and 53 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claim 30 of U.S. Patent No. 7,053,214. Claim 46 has been canceled herein, thereby mooted the rejection as to that claim. In order to avoid further expenses and time delay, applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 C.F.R. § 1.321 (b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence in the Examiner's obviousness-type double patenting rejections. The terminal disclaimer

accompanies this response and provisions have been made for payment of the required fee.

### **35 U.S.C. § 112 Claim Rejections**

Claims 46 and 47 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. To expedite prosecution, Applicants have canceled claims 46 and 47, thereby mooted the rejection.

### **Rejoinder**

It is believed that the application is in condition for allowance. Applicants respectfully request rejoinder and allowance of the withdrawn claims. All of the withdrawn claims depend directly or indirectly from generic claim 10. Thus, upon allowance of generic claim 10, the withdrawn claims should also be allowed. *See* M.P.E.P. §§ 809.02(a) and 821.04(a).

It is believed that no time extension or fees are required for the filing of this response. If this is incorrect, the Commissioner is hereby authorized to charge any deficiency or credit any over payment to Deposit Account no. **50-1627**.

Respectfully submitted,

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